United Nations S/2007/118

Security Council

Distr.: General
1 March 2007

Original: English

Letter dated 28 February 2007 from the Secretary-General to the President of the Security Council

In accordance with the statement by the President of the Security Council of 12 December 2002 (S/PRST/2002/33), I have the honour to convey the attached letter dated 23 February 2007, which I received from the Secretary-General and High Representative for the Common Foreign and Security Policy of the European Union, transmitting the report on the activities of the European Union Police Mission in Bosnia and Herzegovina covering the period from 1 July to 31 December 2006 (see annex).

I should be grateful if you would bring this letter to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

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Annex

Letter dated 23 February 2007 from the Secretary-General and High Representative for the Common Foreign and Security Policy of the European Union addressed to the Secretary-General of the United Nations

In accordance with the statement by the President of the Security Council of 12 December 2002 (S/PRST/2002/33), I attach a report on the activities of the European Union Police Mission in Bosnia and Herzegovina, covering the period from 1 July to 31 December 2006.

I propose to provide the Security Council with a written update on the progress of the Mission.

I would be grateful if you transmit this report to the President of the Security Council.

(*Signed*) Javier **Solana**

Enclosure

Report of the Secretary-General and High Representative for the Common Foreign and Security Policy of the European Union on the activities of the European Union Police Mission in Bosnia and Herzegovina covering the period from 1 July to 31 December 2006

Introduction

1. The European Union Police Mission (EUPM) has been the first operation undertaken under the European Security and Defence Policy. It was launched with a three-year mandate starting on 1 January 2003 and continued from 1 January 2006 to 31 December 2007 with a refocused mandate. Brigadier General Vincenzo Coppola from Italy is the current Head of Mission/Police Commissioner.

2. The Mission operates in line with the general objectives of annex 11 of the General Framework Agreement for Peace in Bosnia and Herzegovina and its objectives are supported by European Community instruments.

Methodology and staffing

Staffing

3. On 30 June 2006, EUPM numbered 419 staff (175 international police officers, 29 international civilian experts and 215 national staff). On 31 December 2006, EUPM numbered 414 staff (166 international police officers, 29 international civilian experts and 219 national staff). All 25 States members of the European Union (EU) and 8 non-EU contributing States[1] participated in the Mission in the current reporting period. The Mission takes due account of Security Council resolution 1325 (2000) on women and peace and security in all its activities, as well as the EU operational paper on practical measures for taking work forward on resolution 1325 (2000) in the context of the European Security and Defence Policy.

Methodology

4. EUPM, under the guidance and coordination of the European Union Special Representative and as part of the broader rule of law approach in Bosnia and Herzegovina and in the region, aims, through mentoring, monitoring and inspecting, to establish a sustainable, professional and multi-ethnic police service in Bosnia and Herzegovina operating in accordance with best European and international standards.

5. The Mission continued to follow its co-location methodology which, in the previous period, had been reviewed and reorganized into a four-region structure, in line with the four State Investigation and Protection Agency (SIPA) regions, each under the supervision of a Chief Regional Adviser. The Mission also maintains multi-level co-locations with SIPA (the lead agency in the fight against organized crime) and the State Border Service (SBS).

6. As from 1 October 2006, under the direction of the EU Special Representative, EUPM has fully assumed the lead in the coordination of policing aspects of the

[1] Bulgaria, Canada, Iceland, Norway, Romania, Switzerland, Turkey and Ukraine.

efforts of the European Security and Defence Policy in the fight against organized crime. It assists local authorities in planning and conducting major and organized crime investigations. EUPM completed an assessment of organized crime as part of its regular review process, enabling the Mission to strengthen its contribution in support of the fight against organized crime, which will remain the key objective for the Mission for 2007.

7. At the end of the year, EUPM reviewed its structure and priorities in order to increase its effectiveness in assisting Bosnia and Herzegovina police in this task.

General situation

8. The period from 1 July to 31 December 2006 was characterized by a number of political developments relevant to police in Bosnia and Herzegovina and the EUPM mandate, among them:

- A slow down in the implementation of reforms. In terms of police reform, Republika Srpska disengaged from active participation in the Directorate for Police Restructuring Implementation, in contradiction with the Agreement on Restructuring of Police Structures of October 2005.
- A tense pre-election campaign, but with a limited number of incidents and a calm and peaceful election day on 1 October.
- The announcement that the Office of the High Representative will begin preparations to close on 30 June 2007, subject to review and confirmation in February 2007, followed by a reinforced EU engagement.

In assessing political developments, the Mission sought guidance from the EU Special Representative as appropriate and continued to benefit from the situational awareness and analysis capabilities of the European Union Monitoring Mission.

9. Although EUPM identified limited shortcomings in the ability of the police services in Bosnia and Herzegovina to effectively maintain public peace and order, overall, the police demonstrated enhanced professionalism together with an increased robustness and resolve, as well as improving multi-ethnic command structures, in dealing with complex public order situations.

10. EUPM continued to advise the appropriate domestic authorities in those areas that remain a source of concern for public order: policing situations involving long-standing disputes over religious symbols, including buildings, politically motivated and/or manipulated incidents, potential for cantonal and entity police services to be perceived as partial. However, despite several serious incidents, EUPM has continued to observe a decrease in the number of ethnic, inter-religious and politically motivated incidents.

Achievements during the reporting period

1. Support of the police restructuring process

11. EUPM has continued to carry out its tasks in support of the police restructuring process. The Head of Mission continued his role as the only international member on the Steering Board of the Directorate for Police

Restructuring Implementation. The Board's 12-month mandate was to provide strategic guidance to the Executive Board of the Directorate on the development of an implementation plan for police restructuring. Their work was concluded on 22 December with the presentation of the Proposed Plan for the Implementation of the Reform of Police Structures in Bosnia and Herzegovina.

12. In Steering Board proceedings, the Head of Mission promoted a number of progressive solutions and suggestions for restructuring, many of which were adopted by the Board. Nevertheless, the substance of the report is a genuine domestic product, reflecting extensive deliberation and discussion among the Bosnia and Herzegovina policing professionals. The plan was forwarded to the Minister of Security on 27 December and the new Council of Ministers is expected to place this issue on its agenda for discussion early in 2007. The completion of the plan is a major achievement considering the technical and political obstacles encountered, including the fact that the Republika Srpska attended the Steering Board only as an observer.

13. Considering the fact that political decisions still need to be made on the police reform and having in mind the considerable implementation period of this reform, EUPM has continued to address the existing fragmentation in the system by supporting cantons in the development of cantonal laws on police officials, representing the country-wide harmonization of legislation regulating police powers and the employment status of police officials. The Mission facilitated the development of a model law, which as at 31 December has been enacted in 6 out of the 10 cantons. As a next step, with the assistance of EUPM and the Office of the High Representative, 26 complementary by-laws are being developed on internal disciplinary procedure and external accountability mechanisms, rank allocations and conditions for promotion, special police powers as well as police officials' salary calculation. Such laws already exist at the State and Federation levels. In parallel to these efforts, EUPM is mentoring the drafting of laws on police officials for the Republika Srpska and the Brcko District, which also require harmonization.

2. Support in the fight against organized crime

Assisting in the planning and conduct of investigations

14. The EU Crime Strategy Group and its two subcommittees, the EU-European Security and Defence Policy Targeting Board (chaired by EUPM since March 2006) and the Policy Task Force, have been instrumental in the Mission's taking the lead role in the coordination of policing aspects of the European Security and Defence Policy efforts against organized crime and have begun to assist local authorities in planning and conducting major and organized crime investigations. EUPM activities in this area are guided by the agreed principles and guidelines among the European Union Special Representative/Office of the High Representative, EUPM and the European Force (EUFOR). The end state of all European Security and Defence Policy efforts is to pass over, with confidence, full ownership and responsibility for the fight against organized crime to the local police.

15. EUFOR ceased providing planning support at the end of September. Organized-crime-related planning support since 1 October has been provided only by EUPM, in line with its mandate. Thus, the Mission has to endorse requests by local police for operational support from EUFOR. Requests were limited to technical capabilities, specialized EUFOR deployment for sensitive operational

measures, such as high-profile arrests, and the provision of additional criminal intelligence.

16. In parallel, EUPM has produced a comprehensive organized crime situation assessment to guide further Mission work in this field. On the basis of police information the assessment has identified more than 20 significant organized criminal groups active in Bosnia and Herzegovina. Through this work EUPM came to realize that local police, including SIPA, are not yet in the position to develop a comparably comprehensive assessment. EUPM is, therefore, uniquely placed to assist the local authorities in their fight against organized crime.

17. Supporting the local police, especially SIPA, to develop towards a more intelligence-led and thereby result-oriented approach, the advisory activity of the Mission during the latter part of 2006 was refocused on criminal analysis and data exchange among the fragmented Bosnia and Herzegovina police services. This is necessary in order to prioritize investigations targeting some of the 20 criminal groups. The Mission has been taking a number of important steps during this period to support the police in this respect. EUPM has also actively pursued its role in assisting in the planning and conduct of a number of individual police organized crime investigations and operations.

18. EUPM has also raised concerns with the State Border Service on the planning and conduct of operations, having noted over several months that some operations being run by SBS units yield no significant results. Various operations lacked reliable assessed intelligence, which hampered results in spite of large numbers of resources being deployed. Following EUPM advice and assistance, smaller, more intelligence-led operations are now being run with some recent notable results in the joint SBS and Indirect Taxation Authority anti-cigarette-smuggling operations along the southern border.

19. The EUPM/SIPA oversight of the reviews of nine high-profile murder investigations from 1998 to 2006 has continued at a rapid pace. EUPM has additionally assisted with key experts to help facilitate these complex organized crime-related investigations. Five of the nine murders are now considered to be cleared; a sixth case shows positive indications that it will shortly be cleared and a seventh has been reopened recently. As a direct result several successful prosecutions regarding murders, financial crime and racketeering are expected shortly. Of equal importance are the links of those murders to influential organized crime figures, which are being investigated.

Relations between police and prosecutors

20. The Criminal Justice Interface Unit continued to identify and address deficiencies in the area of police and prosecutorial cooperation. Already some significant results have been achieved, notably in regard to the reviews of nine high-profile murders (see para. 19).

21. The number of major unsolved crimes, possibly due to corruption, incompetence and/or obstruction, is an indicator of the underdeveloped relations between police and prosecutors at all levels. Among the identified weaknesses are the failure of police and prosecutors to meet; parallel prosecution enquiries without informing the police; lack of understanding among prosecutors of realistic measures required in investigations and/or understanding of staffing implications for the

police; understaffing, in particular at the Bosnia and Herzegovina State level; and crucially, a lack of investigative management capacity and culture. In addition, investigations are held back by delayed prosecutorial approvals, while in some cases there is unequal or arbitrary application of pre-trial custody provisions, where the application of this investigative measure by the prosecution and the judiciary seemingly depends on the suspect's identity. Further, at entity level, coordination and common standards are lacking.

22. EUPM encouraged and supported the State Prosecutor's initiatives, although limited, to play a coordinating role in dealing with some of the above-mentioned concerns, by holding "working days" with police, prosecutors and ministerial representatives. In November, the Bosnia and Herzegovina Chief Prosecutor and the SIPA Director, supported by EUPM, organized a conference on the theme "Towards effective criminal investigations within Bosnia and Herzegovina: improving the cooperation between police and prosecutors" for chief prosecutors and high-ranking police officials at all levels. Participants analysed circumstances in which criminal investigations are currently being conducted, identified shortcomings in police and prosecutor cooperation and proposed specific operational, procedural and legal solutions. A Common [Bosnia and Herzegovina Prosecutor's Office/SIPA] Instruction on Cooperation was introduced that will serve as a model for the entity and cantonal levels, while a pilot project, where prosecutorial representatives are allocated to police bodies, was introduced for the State-level law enforcement agencies. Police-prosecution relations have started to improve, but systematic coordination processes have not yet been established because of the fragmented criminal justice system structures. Nevertheless, the Mission has put forward proposals on common cooperation instructions at entity and cantonal levels in line with those signed in 2005 at the Bosnia and Herzegovina State level.

23. Working with partner agencies, including the United States International Criminal Investigation Training Assistance Programme, EUPM has advised on improvements in the legislative and regulatory framework for major and organized crime investigations. Deficiencies in the criminal and criminal procedure codes were highlighted and proposals for improvement were brought to the attention of the competent bodies. EUPM will also continue this work with regard to legislative changes required by the National Action Plan to Fight Organized Crime and Corruption. EUPM also continued monitoring and advising on the development of subsidiary legal acts to implement provisions of the criminal procedure code. With regard to special investigative measures, EUPM advised on the introduction of police administrative regulations regarding informant handling at the Bosnia and Herzegovina State level to improve the interaction between prosecutors and police. These State-level regulations may now serve as a model for entity and cantonal police. EUPM will further promote subsidiary regulations for other special investigative measures, including advice on the lawful interception of telecommunications, and advise on the development of by-laws regulating storage of evidence.

24. In September, EUPM and the Organization for Security and Cooperation in Europe (OSCE) Mission to Bosnia and Herzegovina strengthened the coordination of their monitoring of the pre-trial and post-indictment aspects of the criminal justice system. Upon provision of arrest information and referral of selected cases, OSCE monitors pre-trial prosecution hearings and subsequent trial proceedings. Deficiencies identified by OSCE are referred back to EUPM in order to allow the

Mission to mentor local police on the application of the criminal law provisions and identify other deficiencies in police investigative practices. EUPM has registered police complaints that there is lack of proper coordination with correctional bodies in the post-sentencing phase of cases, which compromises effective control over sentenced prisoners. This further highlights the need for a holistic criminal justice system approach in supporting the fight against organized crime.

25. In November, as part of continuing efforts to integrate criminal justice system monitoring, EUPM organized meetings with several police services and OSCE, in order to assist OSCE in presenting a juvenile justice system monitoring project. OSCE will be engaging with police, prosecutors, courts, social services and prison services to assess the system by monitoring juvenile cases from arrest onwards, in cooperation with EUPM. The police will provide their views, thus becoming directly involved in this justice reform.

3. Strengthening internal/external control, inspection and accountability of the police

26. The question of police accountability is directly linked both to the police reform and the fight against organized crime. EUPM has applied an inspection methodology to various aspects of police accountability:

- Appointments of police commissioners and directors of police
- Involvement of police in crimes, including war crimes
- Corruption and fraud (mainly in traffic policing, which undermines confidence in the police)
- Gender-related issues
- General misconduct.

The accountability mechanisms and the legal framework in Bosnia and Herzegovina remain insufficient. Because of possible political implications of inspections, the High Representative/EU Special Representative has been regularly informed and political guidance is sought as appropriate. EUPM was given full and unimpeded access to police facilities, personnel, information and files as well as to the police chain of command at all levels.

27. On the basis of information from various sources, including public reports passed to EUPM from personnel in field locations and media allegations, the Mission identified areas for inspections. Suggestions for inspection were reviewed, and in certain cases it was deemed that the appropriate course of action was referral to the local police internal control functions, as opposed to direct Mission involvement, thus encouraging ownership and accountability. Where the Mission has carried out inspections through its two dedicated inspection teams and EUPM resources in locations, its aim has been to encourage the police to identify irregularities and act upon them. EUPM has then continued to oversee the work of internal control functions, or prosecutors as cases are passed to them, to ensure that the cases progress through to a final, conclusive and appropriate result.

28. The key inspection of this period continued to be the evaluation of and investigation into allegations of police corruption and malpractice in the Canton 7 (Mostar) Ministry of the Interior following Operation Granit, which resulted in the

local police commissioner being identified as one of the major suspects for corruption and other offences. It was also found that no disciplinary action had been taken against him by the responsible bodies. In July, EUPM raised its concerns publicly and requested that the local police commissioner suspend two other officials implicated in the investigation and step down from his post. Following the expiration of his mandate in September 2006, the commissioner left his position, but the two other officials remained in place. EUPM consulted with the highest level of the police organization but as the response of the various authorities was not sufficient, EUPM sent comprehensive information on the case to the High Representative/EU Special Representative for consideration. In this context, EUPM has also observed a serious lack of action by the Prosecutor and identified major procedural mistakes. EUPM is dealing with the case in coordination with the High Representative/EU Special Representative to accelerate the work of the Prosecutor in order to conclude the investigation.

29. Operation Granit has been a prime example of the complex interplay of various factors affecting the proper functioning of the police service, including dysfunctional police internal and political oversight mechanisms as well as police-prosecution relations. This all results in serious accountability deficits and undermines the confidence of the public. A proper follow-up (with disciplinary and judicial consequence, where relevant) of inspected cases remains painstakingly slow and politicized in high-profile cases such as Mostar. Nevertheless, inspections have proved an important tool to learn lessons for the police restructuring process, to identify loopholes which can be utilized by criminal groups and also to help in restoring public confidence in the police.

30. EUPM has been mentoring the Republika Srpska Ministry of the Interior on a range of disciplinary and integrity-related legal issues. The Ministry is now clearly seen to be tackling corruption more robustly. In December, a Chief Disciplinary Prosecutor was appointed, a position created following the recommendation of EUPM. The Mission had identified a clear lack of accountability of disciplinary prosecutors at the lower level, with no one at Ministry level coordinating activity or providing leadership in this area. This should improve the overall effectiveness of all disciplinary prosecutions undertaken within this Ministry.

31. In November, following persistent pressure from EUPM, the long-awaited State-level Police Board appointments were finally approved by the Council of Ministers. The Board will act as a second-instance disciplinary and administrative body responsible for reviewing all decisions by State-level law enforcement agencies pertaining to the status of police officials in accordance with the Law on Police Officials and its by-laws and will fill a gap in the disciplinary and administrative framework for the police.

32. Independent selection and review boards, mandated by parliaments, are responsible for the selection of directors of police and police commissioners in the entities and cantons and can review their performance. The legally prescribed mandate of the board members, as well as the mandate of police officials selected by them, is four years. EUPM is closely monitoring the ongoing process of reselection and appointment of new board members and police commissioners at all levels following the expiration of their original mandates late in 2006.

33. The reselection process within the system has been far from satisfactory. Despite clear legal provisions designed to prevent political interference in the

process, political rather than professional considerations played a significant role in the selection of police commissioners as well as board members. This situation has been exacerbated by the general elections held in the autumn. Shortcomings in the present system have necessitated repeated EUPM assistance in interpreting relevant legal texts governing this area. However, while far from perfect, the independent selection and review boards system has proved its merits in limiting political interference. EUPM will thus continue to assist domestic authorities in developing short-term solutions and advocate for the drafting of a comprehensive legal regime for the reformed police in Bosnia and Herzegovina that would provide for a more efficient and professional selection process.

4. Horizontal tasks

Follow-on finalization and implementation of EUPM projects

34. EUPM continued to follow the implementation and finalization of projects launched during 2003-2005 in close cooperation with the Bosnia and Herzegovina police experts co-located within the department. The reliability and sustainability of these projects required a minimum of further engagement, in the form of inspections of the programmes or projects to ensure implementation of the obligations and the recommendations from the earlier project evaluation reports. The inspections started in the summer and many projects, especially those concerning organized crime, SIPA and the Republika Srpska, reached completion in the last period.

35. As an outcome of the comprehensive review in the spring, EUPM was encouraged to play a coordinating role vis-à-vis the donor community in Sarajevo, given that the development of capacity and confidence of local police in fighting organized crime requires further technical assistance, as well as provision of equipment. Accordingly, the Mission has undertaken a continuous mapping of activities and strategies of the bilateral donors in support of Bosnia and Herzegovina law enforcement agencies, in close coordination with the European Commission. In November, EUPM hosted a conference on coordination of donors in the field of policing, as a follow-on to the donor coordination initiative of April, attended by embassy representatives and international organizations. This was used as a practical opportunity to address donors with the needs of SIPA and SBS through the relevant presentations given by EUPM and the EU Coordination Office. Lastly, substantial amounts of equipment have been donated to the police over the last years. EUPM has initiated a quality assessment to inform the main donors, namely, the European Commission and the International Criminal Investigation Training Assistance Programme, about the state and the use of this material.

36. In November, a memorandum of understanding relating to the establishment of a new telecommunication system for Bosnia and Herzegovina law enforcement agencies was signed by all police services and other judicial and relevant bodies. The system will improve communication and coordination between the law enforcement agencies and act as a technical support in the implementation of operational measures. EUPM gave considerable legal and technical advice in drawing up the agreement and played a coordinating role in facilitating the participation of all law enforcement agencies and in securing European Commission funding.

Further support for the development of the State Investigation and Protection Agency and the State Border Service

37. The second target end-state for EUPM is the full establishment of the State-level agencies and preparing SIPA and SBS to be fully operational in order to meet the domestic and international commitments of Bosnia and Herzegovina. Both agencies are in the critical stages of development. EUPM has invested considerable effort in assisting in their institutional and capacity development and continued to advise on improvements to their internal legal, administrative and budget frameworks. This has also involved EUPM input to the joint working group of the two agencies on the Law on Police Officials, which has continued in this period to amend and refine the State-level Law as it affects these two agencies.

38. Specifically regarding SIPA self-sustainability, EUPM has continued to monitor the newly established case management system, which SIPA is using effectively. EUPM has also made tangible progress in the build-up of permanent headquarters and regional offices. Through the relevant departments of the Office of the High Representative/EU Special Representative, EUPM lobbied to ensure that minimum required financial resources are earmarked to start the construction of the permanent premises within the budgetary year 2007. EUPM has also advised on the relocation of SIPA regional offices to larger and non-rented premises, to allow for staff expansion and better sustainability.

39. Following the Mission's advice, in November, SIPA started training its first class of cadets, made up of university graduates qualified in specific areas. Previously, SIPA staff were recruited only from the pool of active police officials working in other law enforcement agencies. The cadet training will help SIPA to hire younger, better qualified, professionally selected and trained officers who can provide expertise in specialized areas such as organized crime and terrorism. This process is being closely monitored by EUPM. Also following EUPM advice, SIPA has started to internally review all legal regulations to identify those which limit effective decision-making by management regarding personnel, promotions, transfers, ranking and the like, in order to improve the functioning and to help ensure its stability and self-sustainability. EUPM has also encouraged SIPA to focus on strategic issues concerning the fight against organized crime and accordingly to strengthen its capacities and support functions to successfully satisfy these needs.

40. One of the main successes in the development of support functions in this period is the full establishment of the SIPA Special Support Unit, which celebrated its first anniversary in September 2006. In only a few months and under the full monitoring of EUPM, the three teams of the Special Support Unit have carried out a number of operations and arrests, mostly at the request of the Bosnia and Herzegovina Prosecutor's Office. It is the Mission's assessment that the unit is now fully operational and has the capacity to perform all its required tasks. EUPM has also assisted the development of other support functions in SIPA in the reporting period, including the development of the computer forensics system, enhancing the capacity of the SIPA Operations Centre and the technical and mobile surveillance capacities.

41. With regard to the State Border Service, EUPM has assisted and monitored the creation of the 2007 annual workplan and has continued to mentor the agency in improving its criminal investigation capacity. This included advising on the development of a new instruction on informant handling and continued support to

the already-established case management system. Assistance was also provided to the implementation of the integrated border management strategy and facilitation of the establishment of the SBS and Indirect Tax Authority working group, mandated to make proposals for and guide the implementation of the agreement on cooperation with the Tax Authority.

42. To contribute to its self-sustainability, SBS made a great effort to produce, in cooperation with EUPM, a new recruitment policy. This will result in the incorporation of 100 new officers and 20 inspectors by the end of June 2007. The distribution of the new staff will be in full accordance with the national balance principle, with the aim of reaching the figure of 10 per cent female officers. Accordingly, during November, EUPM intensively monitored and advised on the activities and preparations of the SBS Central Selection Commission, regarding 3,320 candidates for these new positions. Following the pre-selection, 2,351 candidates were called for examination by the five subcommissions at different locations. EUPM monitored the process and assessed that the tests were conducted in a professional manner.

Police certification

43. Police decertification remains an issue of concern for the Bosnia and Herzegovina authorities, who have requested a review mechanism. The High Representative/EU Special Representative wrote to the President of the Security Council in August asking the United Nations to determine such a mechanism and continued to explore other options during the last six months. In December, the Bosnia and Herzegovina Council of Ministers adopted a decision on the establishment of a national commission for the revision of individual cases of decertified police officers who had initiated legal proceedings before courts in Bosnia and Herzegovina. Given the implications of such a decision, notably with regard to relevant Security Council resolutions and annex 11 of the General Framework Agreement for Peace, the High Representative/EU Special Representative called upon the Council of Minsters to contact the Security Council and the United Nations Secretariat as a matter of urgency.